Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of	
)	
Sunset of the Requirement that Cellular) WT Docket No. 01-108
Systems Maintain Analog Transmission)
Capacity through February 18, 2008,)
Rule Section 22.901(b))
To: The Commission	

COMMENTS OF THE ALARM INDUSTRY COMMUNICATIONS COMMITTEE

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Summary

The Alarm Industry Communications Committee ("AICC") requests the Commission to extend the Rule Section 22.901(b) analog cellular sunset date by an additional two years, *i.e.*, until February 18, 2010. The reason in support of the request is equipment availability.

AICC member companies are engaged in various aspects of the central station alarm business. Central station alarm companies install analog cellular units at their customers' premises as either the primary or back-up means of transporting signals to central station alarm monitoring stations to register an invasion, burglary or fire so that assistance can be summoned. Radio installations are employed because criminals typically cut the telephone line leading into the premises. In addition, AICC member companies provide emergency medical monitoring services. Thus, AICC member companies are engaged in the provision of public safety support services.

Currently, there are approximately 26 million central station alarm systems installed in homes and businesses throughout the United States. At present, there are few alarm system customer premises radio units operating on the digital air interfaces, and all consist of the one and only model currently available. All available units and those under development by equipment manufacturers operate, or will operate, on the GSM air interface. There are no units currently available for the CDMA air interface which means that, in areas without a GSM carrier, central station alarm services will be suspended. The lack of available equipment and time needed to replace more than a million analog alarm radios are compelling reasons to extend the sunset date.

Absent extension of the sunset date, the impact on public safety could be severe, because arson, accidental fires and burglary can result in the death of innocent persons.

Case precedent dictates that, under the facts present here, the sunset date should be extended by an additional two years.

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Comments of the Alarm Industry Communications Committee

The Alarm Industry Communications Committee ("AICC"), by its attorneys and pursuant to the Commission's <u>Public Notice</u>, entitled "Wireless Telecommunications Bureau Reminds Cellular Licensees Of Analog Reporting Requirement," Mimeo DA 05-3015, dated November 30, 2005 (the "November 30, 2005 <u>Public Notice</u>") and <u>Public Notice</u>, entitled "Electronic Filing Of Analog Cellular Status Reports Will Be Available Through The Internet Beginning January 25, 2006 (Reports due by February 21, 2006)", Mimeo DA 06-133, dated January 23, 2006, hereby submits its comments in this matter, and requests that the analog sunset be extended an additional two years, *i.e.*, until February 18, 2010. In support hereof, the following is shown:

Statement of Interest

AICC is comprised of representatives of the Central Station Alarm
Association (CSAA), National Burglar & Fire Alarm Association (NBFAA), the Security
Industry Association (SIA), Bosch Security Systems, Digital Monitoring Products,

¹ CSAA, NBFAA and SIA are associations comprised of central station alarm companies, alarm monitoring centers, alarm installation companies and alarm manufacturing companies. Their memberships represent the majority of such companies operating in the United States.

Digital Security Control, Telular, HSM (formerly known as Honeywell Monitoring),
Honeywell Security, Vector Security, Inc., ADT Security Services, Inc., AES- IntelliNet,
GE Security, and Security Network of America. NBFAA, and CSAA representing the
alarm dealer segment, have 2434 member companies providing alarm service to the
public. AICC member companies protect a wide range of sensitive facilities and their
occupants from fire, burglaries, sabotage and other emergencies. Protected facilities
include government offices, power plants, hospitals, dam and water authorities,
pharmaceutical plants, chemical plants, banks, schools and universities. In addition to
these commercial and governmental applications, alarm companies protect an increasing
number of residences and their occupants from intruders, burglary and fire. Alarm
companies also provide medical alert services for obtaining ambulances in the event of
medical emergencies. Currently, there are approximately 26 million central station alarm
systems installed in homes and businesses in the United States, and an estimated 20
million homes in the United States and their occupants are protected by such systems.

Over the past 20 years, the public has increasingly relied on private security services for fire, burglary and medical alert protection as the services of local law enforcement agencies' resources have become increasingly strained.

AICC member companies use radio units installed at the customer premises as either the primary or backup medium for the transmission of signals to the central station alarm monitoring center. Use of wireless monitoring links has become widespread because a burglar or arsonist will, if possible, cut the telephone line leading from the premises in an attempt to disable any alarm system, since the telephone line has traditionally been used to transmit the signal. In many instances, insurance companies

require alarm companies to utilize two methods of monitoring protected premises, especially in the case of businesses and sensitive facilities that could become the target of terrorist attacks or other life threatening events. For commercial installations, Underwriters Laboratories and the National Fire Code (NFPA 72) require two communications paths. Insurance companies impose this requirement on alarm system users to meet the Code. Citizens can even carry with them a wireless "panic button" that will summon the police on a priority basis in the event of an emergency. While the alarm industry has a limited number of Part 90 radio frequencies available for alarm signaling, various manufacturers have also made customer premise radios that utilize cellular technology. A survey of alarm equipment manufacturers indicates that there are currently more than a million cellular devices installed and operating in protected homes and businesses. AICC has learned that these cellular radios are configured for analog operation only. NBFAA member companies indicate that 92.5 percent of alarm providers use analog cellular alarm radios to serve at least a portion of their customers, and that approximately 70 percent of such providers use the analog radios to relay fire alarms as well as intrusion alerts. A substantial number of alarm providers have indicated to AICC that they use analog radios to transmit medical alert signals as well. For example, Vector Security reports providing at least 5000 customers with medical alert service via AMPS radios.

Once the central station receives a signal indicating a fire, break-in or medical emergency, personnel stationed there contact the appropriate local emergency responders.

Thus, AICC member companies are engaged in the provision of public safety support

services.² In view of the fact that AICC member companies employ analog cellular units as part of their central station alarm infrastructure, AICC and its members have an interest in the scheduled sunset of the requirement that cellular licensees retain analog transmission capacity through February 18, 2008.

For the reasons stated below, AICC requests that sunset of the Rule Section 22.901(b) analog transmission capability requirement be extended an additional two years, *i.e.*, through February 18, 2010.

The Needs of Alarm Industry Service Providers Are At Issue In This Proceeding

The November 30, 2005 <u>Public Notice</u> specifies the content requirements for the reports that nationwide cellular carriers are required to submit by February 21, 2006. Under the subheading "Current State of AMPS," filers are directed to "address the continued need or demand for ancillary use of features and protocols that are part of the [analog] standard for various purposes such as CDPD, telemetry, telematics, vehicle tracking, and <u>alarm systems</u>" (emphasis added).³ Thus, the needs of the alarm industry are directly at issue in this proceeding. In addition, the Commission invited participation

² For example, on July 18, 2005 a carbon monoxide detector installed at the Georgia home of Brian Bennett by NBFAA-member Ackerman Security Systems recently saved the lives of Bennett's two children and their nanny, who were home asleep at the time of the incident. Bennett said when he had his alarm installed he was also advised about the benefits of carbon monoxide and smoke detectors, but he never imagined two months later they would save the lives of his family. After alerting the nanny in the basement, the monitored security system sent a carbon monoxide signal to Ackerman's U.L. Certified Central Station, who then contacted the McDonough, Georgia Fire Department.

Similarly, in June 2005, the Jones family had just added a monitored smoke detector to their existing NorthStar Security System when their Columbus, Ohio, home caught fire, because of a candle left unattended in a bedroom. NorthStar's central station quickly dispatched the fire department to their home.

³ November 30, 2005 Public Notice, pg. 3.

in the current reporting cycle by entities such as alarm companies, as part of the order adopting the AMPS sunset rule:

Finally, other interested parties will be able to file reports or comments as appropriate, and the Commission encourages joint efforts (e.g., the TTY forum). [footnote omitted] . . . We will make these Reports publicly available to all interested parties who may file supplemental information as appropriate to ensure that the Commission has a full record. The information contained in the reports will be used to determine whether or not the Commission will initiate a proceeding to extend the sunset date or take appropriate enforcement action under section 255.

AMPS Sunset Order, paras. 31-32 (Emphasis added).

The Commission Should Extend The Analog Cellular Sunset For An Additional Two Years

The Commission adopted the analog cellular sunset rule⁴ as part of its Year 2000 Biennial Regulatory Review of regulations codified in Part 22 of the Rules.⁵ The rule generally provides that, "[u]ntil February 18, 2005, each cellular system that provides two-way cellular mobile radiotelephone service" must "maintain the capability to provide compatible analog service ('AMPS') to cellular telephones designed" to operate using the analog air interface;⁶ and to "[p]rovide AMPS, upon request, to subscribers and roamers using such cellular telephones while such subscribers are located in any portion of the cellular system's CGSA where facilities have been constructed and service to subscribers has commenced."⁷ As a concurrent requirement, the Commission specified that, until February 18, 2008, "[c]ellular licensees must allot sufficient system resources such that

⁴ Codified in Section 22.901(b) of the Rules.

⁵ Year 2000 Biennial Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, WT Docket No. 01-108, Report and Order, 17 FCC Rcd. 18401 (2002) (the "AMPS Sunset Order").

⁶ Rule Section 22.901(b)(1).

⁷ Rule Section 22.901(b)(2).

the quality of AMPS provided, in terms of geographic coverage and traffic capacity, is fully adequate to satisfy the concurrent need for AMPS availability."

The Commission specified that the analog cellular capacity requirement would expire five years following the date of publication of the AMPS Sunset Order in the Federal Register, which, in the Commission's view should be sufficient time to allow the more widespread availability of digital air interface technologies (e.g., CDMA and GSM) to meet the needs of certain classifications of consumers, such as persons with hearing disabilities, telematics providers, and emergency-only users (e.g., the elderly and battered women) who continue to rely on analog service due to the absence of digital alternatives.9 The Commission specified that, during the five-year transition period, "service providers can conduct customer outreach in order to educate consumers that analog services may be discontinued on a date certain, thereby providing ... consumers with time to migrate from analog to digital handsets." The Commission further specified a requirement that nationwide carriers file certain reports as the five-year sunset date draws near. 11 One of the topics stated for inclusion in these reports is for each reporting carrier to "describe their plan for informing its subscribers, the public and other interested parties regarding plans to discontinue analog service." The information contained in the reports "will be used to determine whether or not the Commission will initiate a proceeding to extend the sunset date or take enforcement action under Section 255."¹³

Rule Section 22.901(b)(2).

AMPS Sunset Order, Para. Nos. 6, 8, 18-20, 22, 23, 24, 28 and 29.

¹⁰ AMPS Sunset Order, Para. No. 24.

¹¹ AMPS Sunset Order, Para. Nos. 31 – 34.

¹² AMPS Sunset Order, Para. No. 31.

¹³ AMPS Sunset Order, Para. No. 32.

Sunset Order focuses primarily on the needs of persons with hearing disabilities and 911only consumers, the November 30, 2005 Public Notice reflects that a more expansive
scope will be undertaken in reviewing the needs of classes of customers who have a
continuing reliance on analog services. As noted above, the November 30, 2005 Public
Notice specifies that "filers should address the continued need or demand for ancillary
use of features and protocols of the AMPS standard for various purposes such as CDPD,
telemetry, telematics, vehicle tracking and alarm systems," user categories that extend
well beyond persons with hearing disabilities and emergency-only users. Thus, it clearly
appears that the classes of users specifically mentioned in the AMPS Sunset Order's
discussion of the reports was an illustration only, and not a limitation on the
Commission's authority to extend the analog sunset if needed to assure the continued
provision of service to classes of customers who will not have a viable alternative to
analog service by the sunset date.

AICC respectfully submits that the needs of the central station alarm industry clearly warrant extension of the sunset date by an additional two years. As discussed below, central station alarm companies simply will not be able to transition more than a million consumers, businesses and government facilities from analog service to digital alternatives that are only now being developed. Even if digital replacement radios were available in unlimited numbers today, the time it will take to identify all of the specific locations of analog radios and schedule a truck roll to replace them would be well over two years. The radios are generally mounted in attics, crawlspaces and other locations not readily accessible; and in every instance the digital upgrade will require that a service

¹⁴ November 30, 2005 Public Notice, pg. 3.

call be arranged. In the case of residential installations, it is often difficult to set up a replacement because the homeowner is at work during business hours. It is estimated by NBFAA (based on member input) that replacement of each radio will require approximately three man hours by a trained technician. While alarm companies maintain enough technicians on staff to accommodate new orders and routine maintenance of existing customers, these companies do not currently have the extraordinary level of staffing that will be needed to change out more than a million radios in a mere two years. It will take several months at best to ramp up for such an undertaking.

AICC members estimate that the cost of replacing the existing analog customer premises equipment with a digital air interface unit will vary from \$450.00 to \$750.00 per installation, excluding the cost of the equipment. This cost, along with the price of replacement equipment, will have to be born by consumers. Many of these consumers purchased their analog radios within the past couple of years, and could normally expect another seven or eight years of use. Based on member input, AICC estimates that the average age of all analog alarm radios is less than five years, and a substantial number of radios are less than two years old.

An even bigger problem, however, is the lack of radio alarm monitoring equipment operating on the digital air interfaces. At present, only one cellular alarm manufacturer has digital products commercially available. These units are manufactured by Telular Corporation, and are designed to operate **only** on GSM systems. There are no alarm radio units currently available that operate on the CDMA air interface.

Honeywell, one of the primary manufacturers of AMPS alarm radios, has advised AICC that it has not yet completed development of its first digital GSM alarm radio; and

while it is moving forward to complete development in the near future, there will be an inevitable beta testing period before the radios can be mass produced.

The lack of available equipment is a compelling reason to extend the sunset date. One manufacturer (in this case Telular) cannot reasonably be expected to supply the entire needs of the central station alarm industry, and has advised AICC that it is several months away from being ramped up to manufacture its digital alarm radios in the numbers that would be necessary to have a significant impact on the AMPS replacement process. Even if this lone manufacturer could provide more than a million units in less than two years, the Telular solution is incomplete because it manufactures units operating only on the GSM air interface. The same is true of the radio that will eventually be produced by Honeywell. No manufacturer has indicated to AICC that it is currently providing CDMA units, which means that in areas of the country where all wireless carriers operate CDMA networks, wireless alarm relay service may stop functioning, leaving the monitored persons and premises unprotected.

In the case of GSM radios, coverage issues still exist. Simply put, digital cellular coverage has made great strides, but it does not currently match the coverage and building penetration of AMPS. See, e.g., wirelessadvisor.com/analog-cellular.cfm (Free consumer advisor service indicates that "Analog has better coverage than digital, and greater service availability."). Honeywell has advised AICC that, while mobile cell phone users may not notice the coverage and penetration disparities as much, there will be instances in which an indoor fixed radio installation requires the greater signal penetration of a mature network to ensure that it will work.

Another consideration that hampers the alarm industry's ability to rely on a single manufacturer for replacement of all AMPS radios is the need incorporate into the replacement radios the ability to manage the consumers' alarm system based on the capabilities of digital technology. Today's AMPS radios are generally one-way devices they send alarm signals only. GSM radios, on the other hand, can take data back into the protected premises, and can download information at those premises. Therefore, if a dealer is going to be forced to change out all the existing AMPS radios used by its customers, the public interest is served if the dealer installs a more capable unit (GSM or, once developed, CDMA) that can download all of the information from the customer's security panel. This will allow the alarm company to better assess the status of the alarm system remotely, and to timely manage the customer's alarm needs. Because of the nature of the particular security panel installed at the protected premises, one manufacturer's unit may not be able to download data from another manufacturer's panel. This fact further dictates that other alarm manufacturers be given adequate time to develop their digital replacement radios.

Absent extension of the sunset date, the impact on public safety could be severe, because arson, accidental fires and burglary can result in the death of innocent persons. As noted above, central station alarm companies install the analog cellular units at the customer's premises as a radio mechanism to report a fire or break in to the central monitoring station. These radio units are deployed at the customer's premises because burglars and arsonists often attempt to disable the central station alarm by cutting the telephone lines ordinarily used to transmit the monitoring signals to the central station. If the analog alarm radios stop working before they can be replaced, many fires and

burglaries will simply go unreported in real time, thus increasing the odds that innocent persons will be seriously injured or killed, and reducing the odds that the malefactors will be captured quickly and prevented from engaging in other similar crimes at other locations. In the case of a fire, much more widespread damage can result if the alarm signal is not immediately relayed. And in the case of consumers using their alarm radios to relay medical alert signals, the threat to life and health from failed radio operations is obvious.

Case precedent dictates that, under the circumstances present here, the sunset date be extended by an additional two years. As noted above, in specifying the five-year sunset period, the Commission predicted that by February 18, 2008 digital alternatives would be widely available to classes of customers who were forced to rely upon analog service as of the time the AMPS Sunset Order was released in September of 2002. Those predictions have proved untrue. Reviewing courts have held that the Commission must review its predictive judgments when circumstances change. See, e.g., Cellnet Communications, Inc. v. FCC, 149 F.3d 429, 442 (6th Cir. 1998) (deferring to the Commission's predictions about the level of competition, but stating that, if the predictions do not materialize, the Commission "will of course need to reconsider its [decision] in accordance with its continuing obligation to practice reasoned decisionmaking"); Aeronautical Radio, Inc. v. FCC, 928 F.2d 428, 445 (D.C. Cir. 1991) (deferring to the Commission's predictive judgment "with the caveat, however, that, should the Commission's predictions ... prove erroneous, the Commission will need to reconsider its [decision] in accordance with its continuing obligation to practice reasoned decisionmaking"). In this proceeding, the Commission based the AMPS sunset date in

part on the assumption that five years would be adequate for battered women, emergency-only radio users and others to migrate to digital technology based on the introduction of digital substitutes through natural churn, AMPS Sunset Order, para. 25. Unfortunately, substitute digital equipment will not be available in all necessary formats and in sufficient quantities for AMPS alarm radio replacement; and the churn process will take longer than two years from now. Therefore, the Commission's assumption about the timetable for the AMPS transition must be corrected. In the past, the Commission has extended regulatory compliance deadlines where the equipment necessary to meet the deadline was not readily available to a distinct class of persons. E-911 Non-Nationwide Carriers Order (Order to Stay), 17 FCC Rcd. 14841 (2002); see also Leap Wireless International, Inc., 16 FCC Rcd. 19573 (Comm. Wir. Div., WTB 2001)(granting extension of time so that licensee might deploy high data rate wireless technology that was not available in time to meet five-year construction requirement); Monet Mobile Networks, Inc., 17 FCC Rcd. 6452 (Comm. Wir. Div., WTB 2002)(granting extension of time so that licensee might deploy high data rate wireless technology that was not available in time to meet five-year construction requirement); and Warren C. Havens, Mimeo DA 04-2100, adopted July 12, 2004 (granting extension of the five-year construction requirement for 220 MHz licensees due to unavailability of equipment in time to meet construction deadline).

At this juncture, AICC notes that the need of the central station alarm industry for an extension of the sunset date may be attributable, at least in part, to the fact that none of the nationwide cellular carriers undertook to advise AICC member companies of the upcoming sunset date, so that they could internally ramp up for the replacement effort, and prod the equipment manufacturers into developing the necessary replacement equipment and making sufficient quantities commercially available in time to meet the February 18, 2008 sunset date. The only instance of notification that AICC has been able to identify is a communication from Verizon to equipment manufacturer Telular last summer, nearly three years after the AMPS sunset was decided by the FCC. Customer education about the analog sunset is key to a smooth transition, and the Commission has made it clear that education efforts are to be reviewed in the context of the current reporting requirement:

Such carriers, in their reports, may also be required to describe their plan for informing its subscribers, the public and other interested parties regarding plans to discontinue analog service.

AMPS Sunset Order, para. 31. In making this observation, AICC is not seeking to cast blame on the cellular industry, for analog cellular alarm signaling is not one of the higher profile uses of the AMPS capability. Indeed, the impact of the AMPS sunset on the radios used in alarm customer premises was not immediately apparent to the alarm industry. Nonetheless, the lack of awareness of how the AMPS sunset would affect alarm operations, and the lack of adequate notice or discussion about the issue, has hampered the ability of the alarm industry to react to this situation, and perhaps has also negatively impacted manufacturer readiness to provide digital replacement equipment for alarm monitoring functions. The Commission should take this fact into consideration when determining whether an extension is warranted.

Having learned of the impact of the AMPS sunset on alarm operations from other sources, AICC has recently consulted with both the Cellular Telecommunications & Internet Association (CTIA) and Verizon, both of whom were willing to discuss the

alarm industry's AMPS transition issues. AICC will continue discussions with the major cellular carriers to work toward what will hopefully be a mutually agreeable AMPS transition plan. However, at this time, it does not appear that the alarm industry can replace all of the incumbent AMPS radios by February 18, 2008, and cannot be assured that the cellular industry will voluntarily extend the deadline. Therefore, AICC is compelled to urge that the Commission extend the sunset date.

AICC is also compelled to note that, notwithstanding the issues related to alarm operations, the Commission may nevertheless be compelled to extend the sunset date even beyond February 18, 2010 to meet the needs of hearing impaired individuals. For example, the Commission has expressly acknowledged that rural subscribers historically have tended to hold onto their wireless handsets longer than customers in larger, metropolitan areas; and that this is particularly true of the higher-power, 3 watt analog bag phones because of their superior range, which out distances the range of digital units. E911 Compliance Deadlines for Tier III Carriers, 20 FCC Rcd. 7709, Para. Nos. 37, 68, 70, 79 n. 203, and 101 (2005). Presumably, many hearing impaired individuals fall within this category, and they have a legitimate need for the higher operating powers that only analog units can presently provide. Section 255 of the Communications Act of 1934, as amended, may require the Commission to extend the sunset date to accommodate the needs of these customers.

AICC also requests that the Commission build into any order concerning the AMPS transition an instruction that all affected parties work together to develop a reasonable notification procedure, so that AMPS radio users have fair notice (preferably at least 180 days) in advance of when AMPS will be shut down in a particular geographic

area. This notification process would allow alarm companies and other affected AMPS customers to devote their transition resources in an orderly and efficient fashion, rather than scrambling to change out radios throughout the entire country all at once. This procedure has been discussed with cellular industry representatives, and AICC will continue to pursue the specifics of a notification procedure in voluntary discussions with the cellular industry. However, it would be in the public interest to incorporate this requirement into the framework of a revised AMPS transition protocol.

Conclusion

AICC requests the Commission to extend the analog sunset date by an additional two years, i.e., up to and including February 18, 2010, and incorporate an orderly notification procedure into the AMPS transition requirements.

Respectfully submitted,

Alarm Industry Communications Committee

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DECLARATION UNDER PENALTY OF PERJURY

- I, Louis T. Fiore, hereby state the following:
- 1. I am the Chairman of the Alarm Industry Communications Committee.
- 2. I have read the foregoing "Comments of the Alarm Industry Communications Committee," which address the currently-scheduled February 18, 2008 sunset of the requirement that cellular carriers retain analog transmission capacity in their systems and provide analog cellular service. With the exception of those facts of which official notice can be taken, and those matters which are identified as estimates or opinions of other persons or entities, all facts set forth therein are true and correct to the best of my knowledge, information and belief, based on information provided to me by members of AICC and the constituent associations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of February, 2006.

Louis T. Fiore

Louis P. Fion